

Remarks

Claims 1-10 and 12 are pending in this application. Claims 1-10 and 12 now stand rejected.

Claims 11-12 have been cancelled.

Claim Rejections – 35 USC § 112

Claims 1-10 and 12 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

Claim 1 has been amended to show that the hydrofluoroether is a component of the liquid.

Claim 12 has been cancelled.

Accordingly, claims 1-10 are allowable under 35 U.S.C. § 112, second paragraph.

Claim Rejections – 35 USC § 103

Claims 1-10 and 12 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Roser (US 6,190,701) (IDS US Patent Cite 1; previously applied in the Office Action mailed 12/3/09) in view of Johnson (US 5,376,359) (previously applied in the Office Action mailed 12/3/09).

Applicant respectfully traverses the present rejection for the following reasons. Amended claim 1 calls for a liquid having a hydrofluoroether component that improves dispersion of an active ingredient preserved in glassy or amorphous particles. Hydrofluoroethers are not

fluoropolymers (hydrofluoropolyethers are fluorinated polymers). The March 1, 2011 Office Action concedes that “Roser does not teach compositions comprising a liquid hydrofluorinated ether (HFE) (instant Claim 1) or a hydrofluoroether or hydrofluoropolyether (instant Claim 12).” Johnson fails to disclose a composition in which hydrofluoroethers are used to provide the dispersion properties observed in the present invention. Rather, it is the **fluoropolymer component** in Johnson that provides the stabilization of the formulations. Johnson merely discusses hydrofluoroethers with respect to general possibilities for an aerosol propellant and not as part of a composition to improve dispersion.

Accordingly, claims 1-10 and 12 are allowable under 35 U.S.C. § 103(a) over Roser in view of Johnson.

Double Patenting

Claims 1-6, 10, and 12 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-4, 13, and 16-18 of Roser in US Patent 6,190,701, in view of Johnson in US Patent 5,376,359.

Applicant will provide a terminal disclaimer upon indication of allowable subject matter but for the double patenting rejection.

Conclusion

Applicant has made a genuine effort to respond to each of the Examiner's objections and rejections in advancing the prosecution of this case. Applicant believes that all formal and substantive requirements for patentability have been met and that this case is in condition for allowance, which action is respectfully requested. If any additional issues need to be resolved, the Examiner is invited to contact the undersigned at his/her earliest convenience.

The Petition fee of \$245.00 is being charged to our Deposit Account No. 02-3978 via electronic authorization submitted concurrently herewith. Please charge any fees or credit any overpayments as a result of the filing of this paper to our Deposit Account No. 02-3978.

Respectfully submitted,

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